

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

In re Tyrone Noel Nunn,

Plaintiff

Case No. 2:24-cv-01374-CDS-BNW

**Order Dismissing and
Closing Case**

On August 2, 2024, the magistrate judge ordered pro se plaintiff Tyrone Nunn, who is incarcerated in the custody of the Nevada Department of Corrections (“NDOC”) and assigned NDOC #1252474, to file a single signed complaint and either pay the full \$405 filing fee or file an application to proceed *in forma pauperis* by September 2, 2024. ECF No. 3. That deadline expired and Nunn did not file a complaint, pay the filing fee, file an application to proceed *in forma pauperis*, or otherwise respond.

I. Discussion

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives. See *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

1 The first two factors, the public's interest in expeditiously resolving this litigation and
 2 the court's interest in managing its docket, weigh in favor of dismissing Nunn's claims. The third
 3 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of
 4 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
 5 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
 6 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
 7 the factors favoring dismissal.

8 The fifth factor requires me to consider whether less drastic alternatives can be used to
 9 correct the party's failure that brought about the need to consider dismissal. *See Yourish v. Cal.*
 10 *Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic alternatives
 11 before the party has disobeyed a court order does not satisfy this factor); *accord Pagtalunan v. Galaza*,
 12 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts "need not exhaust every sanction short of
 13 dismissal before finally dismissing a case, but must explore possible and meaningful alternatives."
 14 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot progress until
 15 and unless Nunn files a signed complaint, the court cannot operate without collecting reasonable
 16 fees, and litigation cannot progress without a plaintiff's compliance with the court's orders, the
 17 only alternative is to enter a second order setting another deadline. But repeating an ignored order
 18 often only delays the inevitable and further squanders the court's finite resources. The
 19 circumstances here do not indicate that this case will be an exception. Moreover, Nunn has filed
 20 over 80 pro se lawsuits in this district since July 2023.¹ Dozens of these lawsuits have been
 21 dismissed because, like here, Nunn failed to correct fundamental defects with them like filing a
 22 single, signed complaint and either paying the filing fee or filing a complete application to proceed
 23 *in forma pauperis*. *See, e.g., Nunn v. Dep't of Corr.*, Case No. 3:24-cv-00050-ART-CLB, ECF No. 4 (D.
 24 Nev. Nov. 20, 2024) (collecting cases). Setting another deadline is not a meaningful alternative
 25 given these circumstances. So the fifth factor favors dismissal.

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¹ I take judicial notice of the online docket records of the U.S. Courts, which may be accessed by the public at: <https://pacer.uscourts.gov>.

II. Conclusion

Having thoroughly considered these dismissal factors, I find that they weigh in favor of dismissal. It is therefore ordered that this action is dismissed without prejudice based on Tyrone Nunn's failure to file a signed complaint and either pay the filing fee or file a complete application to proceed *in forma pauperis* in compliance with the court's order. The Clerk of Court is directed to enter judgment accordingly and close this case. No other documents may be filed in this now-closed case.

Dated: December 10, 2024

Cristina D. Silva
United States District Judge